



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

MAR 10 2014

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Article No.: 7006 2760 0000 8648 8596

Mr. Kirk Potter
Kirk Potter Feedyard
9180 Poole Avenue
Kearney, Nebraska 68847

Re: Request for Information Pursuant to Section 308 of the Clean Water Act (33 U.S.C. § 1318)

IMMEDIATE ATTENTION REQUIRED

Dear Mr. Potter:

On June 11, 2013, representatives of the United States Environmental Protection Agency performed an inspection of the cattle feedlot located at 9180 Poole Avenue, Kearney, Nebraska (Feedlot) to assess the Feedlot's compliance with the Clean Water Act. The purpose of this letter is to obtain additional information necessary for the EPA to evaluate the Feedlot's compliance with the CWA.

The CWA may regulate feedlot runoff containing pollutants that discharges to waters of the United States. Cattle feedlots may be considered point sources of water pollution and therefore are regulated under the CWA. Section 308 of the CWA, 33 U.S. § 1318, authorizes the EPA to request information to determine compliance with the CWA. Animal feeding operations are effluent sources subject to Section 308 of the CWA.

In order to evaluate the regulatory status of the Feedlot listed above, the EPA requests the following information:

- Please provide copies of animal inventory records that demonstrate the number of cattle confined at the Feedlot and associated dates for the period of January 1, 2011, through February 28, 2014. Such records may include, but are not limited to, invoices, transfer records, contracts, receipts or any other documents that establish the number of cattle confined and associated timeframes.
- Provide dates in terms of consecutive months per year and total months per year that any cattle were present at the Feedlot.
- Provide copies of the service contracts or agreements between cattle owner(s) and property owner(s) for the Feedlot.



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- During the June 11, 2013, inspection, you indicated that the cattle at the Feedlot are the property of Sweetwater Cattle Company. Please describe and document the operations conducted at the Feedlot by Sweetwater Cattle Company and/or its employees. For example, is cattle feed trucked in from the Sweetwater Cattle Company feedlot located at 5622 E. 78th Street, Kearney, Nebraska; do Sweetwater Cattle Company employees feed and maintain the cattle confined at that Feedlot? In your response, please differentiate what activities you perform in the maintenance and feeding of the cattle from those conducted by Sweetwater Cattle employees. Please provide a description of equipment, feeding procedures, animal care or veterinary practices, dead animal disposal practices, manure transfers, land application areas, etc. that are common to the Feedlot and the Sweetwater Cattle Company feedlot.
- Provide all records associated with cattle transfers or shipment between the Feedlot and the Sweetwater Cattle Company feedlot from January 1, 2011, through February 28, 2014.
- Provide information regarding any measures taken, following the June 11, 2013, inspection, to prevent manure or process wastewater from entering the road ditch along Poole Avenue and discharging into the Wood River.

The required information must be submitted no later than twenty-one (21) calendar days after receipt of this letter to:

**Lantz Tipton
U.S. Environmental Protection Agency
Water, Wetlands and Pesticides Division
11201 Renner Boulevard
Lenexa, Kansas 66219.**

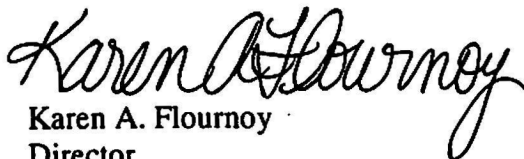
Important Information about this Request and the Response

Please be advised that the failure to respond accurately, or the submission of false information, may subject you to civil or criminal penalties under Section 309 of the CWA, 33 U.S.C. § 1319, and/or 18 U.S.C. § 1001. Further note that the EPA reserves the right to pursue appropriate enforcement actions under Section 309 of the CWA, 33 U.S.C. § 1319, including penalties, for violations of the CWA, including those discovered as a result of the EPA's June 2013 inspection.

The information required by this request must be submitted notwithstanding any claim you may have concerning confidentiality. The facility may assert a business confidentiality claim with respect to part or all of the information submitted to the EPA under the provisions of 33 U.S.C. § 1318, 18 U.S.C. § 1905, as further described in the enclosed instructions. The EPA will consider and process such a request pursuant to such statutes and the EPA regulations at 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to the EPA, it may be made available to the public by the EPA without further notice to the Facility. Please note that pursuant to 40 C.F.R. § 2.302, effluent data, as defined therein, is not eligible for confidential treatment.

We appreciate your cooperation and prompt attention to this matter. If you have any questions regarding this information request, please contact Mr. Lantz Tipton, at phone number (913) 551-7892.

Sincerely,

A handwritten signature in black ink, reading "Karen A. Flourney". The signature is written in a cursive, flowing style.

Karen A. Flourney
Director
Water, Wetlands and Pesticides Division

Enclosures

cc: Jon Kenning, NDEQ